IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL WRIT PETITION NO.659 OF 2005

Ashok Jitmal Banthia & others .... Petitioners
Vs.
Shri P. Shinde & others .... Respondents

Sarvasri S.R. Chitnis with S.V. Kotwal for the Petitioners.

Shri S.R. Shinde, A.P.P., for the Respondent Nos.1, 2 and 5.

CORAM: R.M.S. KHANDEPARKAR &
P.V. KAKADE, JJ.

DATED: MARCH 18, 2005

P.C:

Heard. We have perused the complaint which is made available for our perusal by the learned A.P.P. from the records of the police department in respect of which the petitioners were called to the police station for enquiry. Bare perusal of the said complaint discloses that it is purely a civil dispute between the parties in relation to the plot stated to have been agreed to be sold to the complainants. There is absolutely no cognizable offence disclosed in the complaint and being so, there is no justification for the respondents to call the petitioners to the police station in relation to any enquiry in respect of the said complaint, said to have been filed by the respondent Nos.3 and 4. In case the respondent Nos.3

and 4 had voluntarily paid a sum of Rs.3,25,000/- to the petitioners, as has been stated in the complaint, to enable the petitioners to arrange for a plot of land for the institution or the society which the respondents claim to have formed, and if in case the petitioners are hesitant to arrange for the plot or to refund the said amount as alleged in the complaint, certainly the respondents have right to take necessary proceedings in the Court of law. But merely on account of breach of the terms of the oral agreement between the parties, it cannot give rise to any criminal liability as such so as to enable the police authorities to enquire into the matter on supposed assumption of the breach being a cognizable criminal offence. Viewed from this angle, the action on the part of the police authorities in calling the petitioners to the police station cannot be appreciated and the petitioners are therefore justified in complaining against the same.

Since there is no cognizable offence disclosed in the complaint filed by the respondent Nos.3 and 4 in the matter in hand, question of the petitioners being called to the police station for the alleged enquiry does not arise. As it is not disclosed that the petitioners are required to attend the police station in any other matter, the respondents shall not be entitled to call the petitioners to the police station in

relation to the alleged enquiry in respect of the said complaint filed by the respondent Nos.3 and 4. With these directions, the petition is disposed of.

(R.M.S. Khandeparkar, J.)

(P.V. Kakade, J.)